



Paper No. 22

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OFFICE OF PETITIONS

In re Application of
Rajopadhye, et al.
Application No. 09/599,890
Filed: June 21, 2000
Attorney Docket No. DM-6999-A

ON RENEWED PETITION

This is a decision on the renewed petition filed on May 31, 2002, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the non-final Office action, mailed April 4, 2001, which set a shortened statutory period for reply of one (1) month. On September 7, 2001, petitioner filed a Continued Prosecution Application (CPA). However, petitioner did not obtain an extension of time, so the CPA could not be entered. Regardless, petitioner was mailed a Notice of Improper CPA on September 27, 2001. CPA practice is only available for applications filed before May 29, 2000.¹ Moreover, the CPA could not be treated as an RCE because prosecution in the application had not yet closed. Petitioner obtained the necessary five (5) month extension of time on October 1, 2001 to maintain pendency of the application for purposes of the CPA. However, as explained above, the application is not eligible for CPA practice, nor could the CPA be treated as a constructive RCE. Accordingly, the above-identified application became abandoned on October 5, 2001. A Notice of Abandonment was mailed on October 17, 2001. Petitioner filed a petition to revive under 37 CFR 1.137(b) on February 8, 2002. However, this petition was dismissed in a decision mailed on April 2, 2002.

With the instant petition, petitioner has submitted an election in response to the April 4, 2001 Restriction Requirement and made the proper statement of unintentional delay. The petition fee was previously submitted with the earlier petition on February 8, 2002.

The application file is being forwarded to Technology Center 1600 for consideration of petitioner's amendment (election), filed May 31, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
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for Patent Examination Policy

¹ See 37 CFR 1.53(d) (1) (I) (A).